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**OFFICE OF PETITIONS**

In re Application of	:
Gupta	:
Application No. 09/679,212	: DECISION ON PETITION
Filed: October 4, 2000	: UNDER 37 CFR 1.181
Attorney Docket No. JP920000252US1	:
For: SMTP EXTENSION FOR EMAIL	:
DELIVERY FAILURE	:

This is a decision on the petition under 37 CFR 1.181, filed September 26, 2005 (certificate of mailing date September 21, 2005), to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned due to applicant's alleged failure to reply within one month to the Notice of Drawing Inconsistency with Specification, mailed April 1, 2005. The Office contended that this application became abandoned on May 2, 2005. A Notice of Abandonment was mailed on July 22, 2005.

Petitioner asserts that a reply was timely filed on certificate of mailing date April 27, 2005 and received in the Office on May 2, 2005. In support of this assertion, petitioner has provided a copy of applicant's response that contains a proper certificate of mailing bearing a April 27, 2005 date of deposit.

Under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The

person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

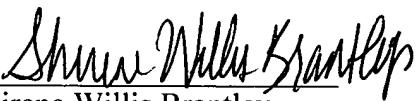
The "Letter in Response to Drawings Inconsistency" bears a proper certificate of mailing, dated April 27, 2005, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. In addition, the attorney signing the certificate, Karuna Ojanen, had reasonable basis to expect that the correspondence would be mailed on April 27, 2005.

In addition, petitioner has submitted an itemized postcard receipt showing an Office of Initial Patent Examination date stamp, citing May 2, 2005 as the date of receipt, affixed thereto. The postcard lists, *inter alia*, that the filing included a 2 page letter, 12 pages of substitute specification, and 2 figures. The return postcard constitutes *prima facie* evidence that the items listed thereon were received in the Office on May 2, 2005. MPEP 503.

Accordingly, the petition under 37 CFR 1.181 is **GRANTED**, the holding of abandonment is withdrawn, and the July 22, 2005 Notice of Abandonment is vacated.

After the mailing of this decision, the application file will be returned to Publications Division for consideration of the response to the Notice of Drawing Inconsistency with Specification, filed May 2, 2005 (certificate of mailing date April 27, 2005).

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

  
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for Patent Examination Policy